IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

FRIDAY, THE 17TH AUGUST 2007 / 26TH SRAVANA 1929

MACA.No. 592 of 2007()

OPMV.1342/2000 of MOTOR ACCIDENT CLAIMS TRIBUNAL, PERUMBAVOOR

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APPELLANT/1ST RESPONDENT

WILSON, S/O. VARGHESE,
NJESHUNGAN HOUSE, NEAR TEMPLE, CHELAMATTAM KARA,
CHELAMATTAM VILLAGE.

BY ADV. SRI.SUNIL CYRIAC
SMT.N.SINDHU

RESPONDENTS: PETITIONER & 2ND RESPONDENT

(*)1. AYYAPPANKUTTY, AGED 47 YEARS,
S/O. KAVALAN, ERAYACKETTUKUDY HOUSE,
KANJIRAKKADU KARA, PERUMBAVOOR VILLAGE.

2. UNITED INDIA INSURANCE CO. LTD.,
BRANCH OFFICE, PERUMBAVOOR.

(*)FIRST RESPONDENT IS DELETED FROM THE PARTY ARRAY AT THE RISK OF THE APPELLANT AS PER ORDER DATED 13.4.2007 IN IA NO.798/2007.

BY ADV. SC FOR UNITED INDIA INS. CO.
SRI.THOMAS MATHEW NELLIMOOTTIL

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 17/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. PADMANABHAN NAIR ,J

M.A.C.A.No.592 of 2007

Dated, this the 17th day of August, 2007

JUDGMENT

First respondent in O.P.(MV) No.1342/2000 on the file of the Motor Accidents Claims Tribunal, Perumbavoor is the appellant. Appeal is filed against the award passed by the Tribunal by which it directed the second respondent insurer to pay the compensation and then recover the same from the appellant.

2. Appellant is the owner-cum-rider of motor cycle bearing registration No.KL-7T-2258. On 10.7.2000 while the appellant was riding the motor cycle it hit against the first respondent/petitioner (He was subsequently removed from the party array). First respondent sustained injuries. He filed Original Petition claiming compensation from the appellant as well as second respondent/insurer. Appellant did not appear and file any written statement. He remained ex parte. Insurer alone contested the matter. Insurer disputed the allegation of negligence. Quantum of compensation claimed also was disputed. Existence of valid insurance policy was admitted. It was contended that the appellant/insured did not inform the insurer the details of the accident and produce the driving licence for verification and hence it was not liable to pay compensation. It was also contended that the driving licence of appellant was not renewed on the date of occurrence, i.e., 10.7.2000 and the validity of the driving licence ended on 2.5.2000. Tribunal after enquiry found that the petitioner in Original Petition was

entitled to get Rs.25,810/- as compensation. In view of the fact that the appellant was not having a valid driving licence on the date of accident, the Tribunal observed that the insurer is at liberty to recover the amount of compensation from the appellant after satisfying the same. Aggrieved by that observation the appellant filed M.A.C.A.No.2085/2006 before this Court and this Court set aside the impugned award and remanded the case back to Tribunal to consider the question whether the insurer can recover the amount of compensation from the appellant after satisfying the same. After remand the appellant produced the driving licene which was marked as Ext.B2. Tribunal after perusing Ext.B2 driving licence again found that there was no valid licence on the date of occurrence, i.e., 10.7.2000 and again directed the insurer to pay the compensation amount and then recover the same from the appellant. Challenging that award this appeal is filed.

3. Though notice was served on the second respondent/insurer it did not appear and contest. First respondent/petitioner in the Original Petition was removed from the party array.

4. The only question arising for consideration in this appeal is whether the finding of the Tribunal that the appellant was not holding a valid driving licence on the date of accident is correct or not. Original of Ext.B2 was returned after keeping a certified photocopy of the same.

5. Learned counsel appearing for the appellant has produced original

driving licence for verification. It shows that at page No.6 licence to drive motor vehicles other than transport vehicles was issued on 13.1.1994 and recorded that the same was valid upto 12.1.1997. In page 7 the appellant was given authorisation to drive transport vehicles (three wheelers) from 13.1.1994 to 12.1.1997. The licence to drive motor vehicles other than transport vehicles was renewed from 3.5.1997 to 2.5.2000. The licence to drive transport vehicles (three wheelers) was renewed from 5.1.2001 to 4.1.2004 and thereafter on 30.9.2005 and it was renewed upto 29.9.2008. There is an entry in page 13 of the licence to the effect that the licence to drive non-transport vehicle is valid upto 12.1.2014. Of course from what date is not recorded. In view of the fact that the renewal of licence to drive motor vehicles other than transport vehicles from 3.5.1997 to 2.5.2000 the Tribunal took a view that the appellant was not holding valid driving licence as on 10.7.2000. It is true that in page 6 the entry was to the effect that the original licence was issued for driving motor vehicles other than transport vehicles from 13.1.1994 to 12.1.1997 and that was subsequently renewed from 3.5.1997 to 2.5.2000. So going by the entries on pages 6 and 9 in the licence it may appear that the appellant was holding no valid licence on the date of accident. But the Tribunal has not considered the legal effect of the endorsement made by the Transport Authority on page 13 of the licence to the effect that the licence to drive non-transport vehicle is valid upto to 12.1.2014. The licence to drive vehicles other than transport vehicles was initially granted for a period of three

years from 13.1.1994 to 12.1.1997. At the time of renewal in the year 1997 again it was limited till 2.5.2000. That was illegal and against the statutory provisions. Section 14 of the Motor Vehicles Act deals with the currency of licences to drive motor vehicles. The authority who issued the licence followed the provisions in Motor Vehicles Act, 1939 and failed to take note the changes effected by Section 14 of Motor Vehicles Act, 1988. Under Section 10 of the Motor Vehicles Act, 1939 the period of licence for any vehicle can be granted only three years and that was amended as five years with effect from 16.1.1979. Under the old Act whether it is a transport vehicle or non-transport vehicle licence can be issued only for a limited period. One of the major changes effected by 1988 Act was to give a currency of 20 years or till the date of attaining the age of 50 years to a licence issued for driving vehicles other than transport vehicles. That is the reason why the authority who issued the licence subsequently made an entry to the effect that the licence is valid upto 12.1.2014. So a mistake was committed by the authority who issued the licence in limiting the currency of licence for a limited period. It was subsequently noted and necessary correction was entered in the driving licence. So the finding of the Tribunal that the appellant had no driving licence on 10.7.2000 cannot be upheld.

6. Considering all aspects of the matter I hold that the appellant was holding valid driving licence on the date of accident. It was admitted that the vehicle was covered with valid insurance policy. So that portion of the award by

which the Tribunal permitted the insurer to recover the same from the appellant is liable to be set aside.

In the result, M.F.A. is allowed in part. That portion of the award by which the Tribunal allowed the insurer to recover the same from the appellant is hereby set aside. Insurance Company is directed to pay the entire amount.

I.A.No.836/2007 will stand dismissed.

K. PADMANABHAN NAIR
JUDGE

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